

Maritime Administration, DOT

§ 221.13

(B) Of less than 1,000 gross tons	170
(ii) Mortgage of, or Transfer of any interest in, or control of, a Documented Vessel owned by a Citizen of the United States to a Noncitizen, per vessel	250
(iii) Charter of a Documented Vessel owned by a Citizen of the United States to a Noncitizen, per vessel	250
(iv) Sale or Transfer of an interest in or the control of an interest in an entity that is a Citizen of the United States and owns, or is the direct or indirect parent of an entity that owns, any Documented Vessel, if by such sale or Transfer the Controlling Interest in such entity is vested in, or held for the benefit of, any Noncitizen	325
(v) Application for approval to act as Mortgagee or trustee for an indebtedness secured by a preferred mortgage on a Documented Vessel, and all required renewal applications	215

(2) Transactions requiring written approval pursuant to a Maritime Administration contract or Order:

(i) Transfer of ownership or registry, or, both, of the vessel, per vessel	260
(ii) Sale or Transfer of any interest in the owner of the vessel, if by such sale or Transfer the Controlling Interest in the owner is vested in, or held for the benefit of, a Noncitizen, per vessel	235
(iii) Charter of the vessel to a Noncitizen, per vessel ...	240
(iv) Transfer of title to a vessel subject to a mortgage in favor of the United States and to have the mortgage assumed by a new mortgagor, per vessel	400

(c) *Modification of applications or approvals.* An application for modification of any pending application or prior approval, or of an outstanding Maritime Administration contract or Order, shall be accompanied by the fee established for the original application.

(d) *Reduction or waiver of fees.* The Maritime Administrator, in appropriate circumstances, and upon a written finding, may reduce any fee imposed by paragraph (b) or (c) of this section, or may waive the fee entirely in extenuating circumstances where the interest of the United States Government would be served.

Subpart B—Transfers to Noncitizens or to Registry or Operation Under Authority of a Foreign Country

§ 221.11 Required approvals.

(a) Except as provided in sections 31322(a)(1)(D) and 31328 of title 46, United States Code, a Person may not, without the approval of the Maritime Administrator:

(1) Sell, mortgage, lease, charter, deliver, or in any manner Transfer to a Noncitizen, or agree (unless such agreement by its terms requires approval of the Maritime Administrator in order to

effect such transfer), to sell, mortgage, lease, charter, deliver, or in any manner Transfer to a Noncitizen, any interest in or control of a Documented Vessel owned by a Citizen of the United States or a vessel the last documentation of which was under the laws of the United States except as provided in this part; or

(2) Place any Documented Vessel, or any vessel the last documentation of which was under the laws of the United States, under foreign registry or operate that vessel under the authority of a foreign country, except as provided in this part.

(b)(1) The approvals required by paragraph (a)(1) of this section are not required for the following Documented Vessel types if the vessel has been operated exclusively and with *bona fides* for one or more of the following uses, under a Certificate of Documentation with an appropriate endorsement and no other, since initial documentation or renewal of its documentation following construction, conversion, or transfer from foreign registry, or, if it has not yet so operated, if the vessel has been designed and built and will be operated for one or more of the following uses:

- (i) A Fishing vessel;
- (ii) A Fish processing vessel;
- (iii) A Fish tender vessel; and
- (iv) A Pleasure vessel.

(2) A vessel of a type specified in paragraphs (b)(1)(i) through (iii) of this section will not be ineligible for the approval granted by this paragraph by reason of also holding or having held a Certificate of Documentation with a coastwise or registry endorsement, so long as any trading under that authority has been only incidental to the vessel's principal employment in the fisheries and directly related thereto.

§ 221.13 General approval.

(a) *Transactions other than transfer of registry or operation under authority of a foreign country.* (1) The Maritime Administrator hereby grants the approval required by 46 App. U.S.C. 808(c)(1) for the sale, mortgage, lease, Charter, delivery, or any other manner of Transfer to a Noncitizen of an interest in or control of a Documented Vessel owned by

a Citizen of the United States or a vessel the last documentation of which was under the laws of the United States except:

(i) As limited by paragraph (b) of this section for transfers to Bowaters Corporations;

(ii) As limited by § 221.15(d) of this part for sales for scrapping;

(iii) As limited by §§ 221.23 and 221.25 of this part for approval of preferred Mortgagees and by §§ 221.27, 221.29, 221.31 and 221.33 for permitted mortgage trusts and approval of their trustees; and

(iv) Bareboat or demise Charters of vessels operating in the coastwise trade.

A Documented Vessel shall remain documented following any transaction approved by this paragraph (a)(1). Other approvals may be required by statutes other than 46 App. U.S.C. 808(c)(1) and/or by contract for certain vessels.

(2) The approvals granted by paragraph (a)(1) of this section shall not apply to any such Transfer proposed to be made during any period when the United States is at war or during any national emergency, the existence of which has invoked the provisions of section 37 of the Shipping Act, 1916, as amended (46 App. U.S.C. 835), or to any such Transfer proposed to be made to a citizen of any country when such transfer would be contrary to the foreign policy of the United States as declared by an executive department of the United States.

(3) An information copy of any sales agreement, bareboat or demise Charter, or mortgage entered into pursuant to this approval shall be submitted to the Vessel Transfer Officer not later than thirty days following a request by that official.

(4) Except for Charters to Noncitizens of documented bulk cargo vessels engaged in carrying bulk raw and processed agricultural commodities from the United States to ports in the geographic area formerly known as the Union of Soviet Socialist Republics, or to other permissible ports of discharge for transshipment to the geographic area formerly known as the Union of Soviet Socialist Republics, pursuant to an operating differential subsidy agreement that is consistent with the

requirements of 46 CFR parts 252 and 294, this approval excludes and does not apply to Transfers to a Person who is subject, directly or indirectly, to control of an entity within the geographic area formerly known as the Union of Soviet Socialist Republics, Latvia, Lithuania, Estonia, Libya, Iraq, Bulgaria, Albania, North Korea, Laos, Cambodia, Mongolian Peoples Republic, Vietnam, or Cuba, unless such transferee is an individual who has been lawfully admitted into, and resides in, the United States, or to Charters for the carriage of cargoes of any kind to or from, or for commercial operation while within the waters of (as distinct from passage through), any of these countries. This list of countries is subject to change from time to time. Information concerning current restrictions may be obtained from the Vessel Transfer Officer.

(b) *Bowaters corporations.* (1) For documented Vessels other than those operating in the coastwise trade, the approvals granted in paragraph (a) of this section shall apply to Bowaters Corporations.

(2) The Maritime Administrator hereby grants approval for the time charter of a Documented Vessel of any tonnage by a Citizen of the United States to a Bowaters Corporation for operation in the coastwise trade, subject to the following conditions:

(i) If non-self-propelled or, if self-propelled and less than 500 gross tons, no such vessel shall engage in the fisheries or in the transportation of merchandise or passengers for hire between points in the United States embraced within the coastwise laws except as a service for a parent or subsidiary corporation; and

(ii) If non-self-propelled or, if self-propelled and less than 500 gross tons, no such vessel may be subchartered or subleased from any such Bowaters Corporation except:

(A) At prevailing rates;

(B) For use otherwise than in the domestic noncontiguous trades;

(C) To a common or contract carrier subject to part 3 of the Interstate Commerce Act, as amended, which otherwise qualifies as a Citizen of the United

States and which is not connected, directly or indirectly, by way of ownership or control with such corporation.

§ 221.15 Approval for transfer of registry or operation under authority of a foreign country or for scrapping in a foreign country.

(a) *Vessels of under 1,000 gross tons.* (1) The Maritime Administrator hereby grants approval for the Transfer to foreign registry and flag or Operation Under the Authority of a Foreign Country or for scrapping in a foreign country of Documented Vessels or vessels the last documentation of which was under the laws of the United States and which are of under 1,000 gross tons if at the time of such Transfer there are no liens or encumbrances recorded against the vessel in the U.S. Coast Guard Documentation Office at its last U.S. port of record.

(2) This approval shall not apply if the vessel is to be placed under the registry, or operated under the authority of, or scrapped in any country listed in § 221.13(a)(4) of this part.

(3) This approval shall not apply to any such Transfer proposed to be made during any period when the United States is at war or during any national emergency, the existence of which has invoked the provisions of section 37 of the Shipping Act, 1916, as amended (46 App. U.S.C. 835), or to any such Transfer proposed to be made to a citizen of any country when such transfer would be contrary to the foreign policy of the United States as declared by an executive department of the United States.

(b) *Vessels of 1,000 gross tons or more.* (1) Applications for approval of Transfer to foreign registry and flag or Operation Under the Authority of a Foreign Country or for scrapping in a foreign country of Documented Vessels or vessels the last documentation of which was under the laws of the United States and which are of 1,000 gross tons or more will be evaluated in light of—

(i) The type, size speed, general condition, and age of the vessel;

(ii) The acceptability of the owner, proposed transferee and the country of registry or the country under the authority of which the vessel is to be operated; and

(iii) The need to retain the vessel under U.S. documentation, ownership or control for purposes of national defense, maintenance of an adequate merchant marine, foreign policy considerations or the national interest.

(2) If the application is found to be acceptable under the criteria of this paragraph, approval will be granted. For vessels of under 3,000 gross tons, in the absence of unusual circumstances, no conditions will be imposed on the transfer. For vessels of 3,000 gross tons and above, approval will be granted upon acceptance by the owner of the terms and conditions referred to in paragraph (c) or (d) of this section, as applicable. Additional terms deemed appropriate by the Maritime Administrator may be imposed. The terms and conditions shall be contained in an Approval Notice and Agreement ("Contract") executed prior to issuance of the Transfer Order. Unless otherwise specified, the terms and conditions shall remain in effect for the period of the remaining economic life of the vessel or for the duration of a national emergency proclaimed by the President prior or subsequent to such Transfer, whichever period is longer. The economic life of a vessel for purposes of this regulation is deemed to be twenty (20) years for tankers and other liquid bulk carriers and twenty-five (25) years for other vessel types. This period is to be calculated from the date the vessel was originally accepted for delivery from the shipbuilder, but may be extended for such additional period of time as may be determined by the Maritime Administrator if the vessel has been substantially rebuilt or modified in a manner that warrants such extension.

(c) *Foreign transfer other than for scrapping.* If the foreign Transfer of a vessel referred to in paragraph (b) of this section is other than for the purpose of scrapping the vessel and other than a Transfer to the government of an acceptable foreign country, and in the absence of unusual circumstances as determined by the Maritime Administrator (for example a Transfer to an entity controlled by the government of an acceptable foreign country), the following conditions will be imposed on the transferee: